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17/Appeal Brief
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re: Application of: Toshikatsu Ito)
Serial No.: 09/828,567)
Filed: April 9, 2001)
IMPROVED ANCHOR BOARD)

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Name of applicant, assignee or Registered Representative: Irving Keschner
Signature
Date: September 4, 2003

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APPEAL BRIEF

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1. REAL PARTY IN INTEREST

The party identified in the caption of the brief is the real party in interest.

2. RELATED APPEALS AND INTERFERENCES

No such appeal or interferences are known to appellant or appellant's legal representative.

3. STATUS OF CLAIMS

Claims 4 and 6-12 have been finally rejected. A Notice of Appeal was filed on July 7, 2003.

4. STATUS OF AMENDMENTS

No amendment was filed after the Final Rejection.

5. SUMMARY OF INVENTION

The present invention provides an improved board anchor having a screw shaft, a freely revolving anchor section attached to the screw shaft, a re-positioning device for positioning the anchor section in a cross position against the screw shaft from a position parallel with the screw shaft and a threaded attachment ring, the screw shaft screwing into the attachment ring and a formed screw hole in the anchor section.

To anchor a board to a wall, the anchor section is rotated and placed in a parallel position with the screw shaft positioned along a straight line. On one side of the wall, the screw and anchor section are both inserted through the insertion hole in the wall. The anchor section is then rotated toward a cross, or perpendicular, position from its parallel position through the force of a spring when the shaft and anchor pass through the hole, the anchor being stopped in a cross position by a mechanism that comprises the attachment ring and portion of the anchor section itself. From the same side of the wall, the screw shaft is then pulled back in the opposite direction to the direction of insertion to place the anchor section flush against the other side of the wall. The board is then placed closely against the wall before inserting the screw shaft through a screw hole formed in the board. Finally, a nut is screwed onto the end section of the screw shaft on the board side. The screw is tightened to press the board against the wall, thus anchoring the board to the wall.

As noted above, after the anchor section stops in a cross position to the screw shaft, the screw shaft is screwed into the attachment ring and the screw hole in the anchor section. Since the mechanism has stopped the anchor section in a cross position, the positions of the screw shaft and the screw hole on the anchor section become aligned, thus allowing the screw shaft to easily screw into the anchor section. Since the screw shaft and the anchor section are linked by screw coupling, the device can be used for boards and walls of varied thickness by adjusting the length of the screw shaft through the insertion hole on the wall.

The stopper mechanism comprises trunnions, or protrusions, formed on each end of the attachment ring, and shaped holes formed on the anchor section and linked to the trunnions. The shaped holes are designed to consistently stop the trunnions in a manner to secure the anchor section in the cross position.

It is recognized that toggle bolts have been available in the prior art for many years as evidenced by the prior art cited by the examiner. However, it is believed that the board anchor set forth in the appealed claims define a board anchor that provides significant advantages thereover and warrants patent protection.

6. ISSUES

Whether claim 4 is anticipated by Newhall et al (US 1179449). Whether claims 6, 7 and 8 are unpatentable over Newhall et al (US 1179449) and further in view of Place (US 2144895). Whether claims 9 and 10 are unpatentable over Newhall et al (US 1179449) in view of Place (US 2144895) and further in view of Gelpcke (US 2567372). Whether claims 11 and 12 are unpatentable over Newhall et al (US 1179449) in view of Place (US 2144895) and further in view of Newhall (US 1084289).

7. GROUPING OF CLAIMS

Independent claim 4 and dependent claims 6-12 do not stand or fall together. In particular, the Board should decide the appeal on the basis of claims 4, 6, 7, 11 and 12 separately.

8. ARGUMENT

WHETHER CLAIM 4 IS ANTICIPATED BY NEWHALL ET AL UNDER 35U.S.C. 102(b)

Although Newhall et al (1179449) discloses a toggle bolt, the construction of the toggle bolt differs substantially from that set forth in claim 4. In particular, Newhall et al does not disclose the equivalent of attachment ring 8 set forth in claim 4, the attachment ring having two important functions. First, attachment ring 8 enables the position of screw shaft 1 and screw hole 9 in anchor section 2 to be aligned making it easier to screw shaft 1 into screw hole 9. Secondly, attachment ring 8 includes protrusions (trunnions) that with the shaped openings formed on the anchor section sides function to lock the anchor head into the horizontal position after exiting the rear surface of the mounting wall.

A further feature of the board anchor set forth in claim 4 is that coupling of the screw shaft 1 with the anchor section 2 (when the anchor section is in the horizontal position) increases the anchoring strength and, in addition, allows the screw shaft 1 to be removed if necessary. The Newhall et al toggle bolt has none of the above features.

The examiner characterizes Newhall's nut 5 as a component identical to appellant's attachment ring 8. However, it is clear that Newhall's nut 5 is not structurally

or functionally the same as the attachment ring 8. In particular, the Newhall et al toggle bolt (and the similar one disclosed in Patent No. 1,084,289 to Newhall) is designed such that the head 4 of stem 3 or nut 5 can be mounted within the toggle bolt head 2 interchangeably and, according to the inventor, enables either the nut 5 or head 4 to be left on the exterior of the supported article. In either arrangement, the nut 5 is not adapted to be used as an attachment ring having the features set forth in appealed claim 4.

The court in Atlas Powder Co. v. IRECO Inc. 51USPQ2d 1943 (Fed.Cir. 1999) reiterated the basic law regarding anticipation rejections in that a prior art reference must disclose every limitation of the claimed invention [Id. p. 1945]. It is clear that claim 4 contains limitations not disclosed by the Newhall et al reference and thus this rejection is inapplicable to claim 4.

WHETHER CLAIMS 6 AND 7 ARE UNPATENTABLE OVER NEWHALL ET AL AND FURTHER IN VIEW OF PLACE

The significant differences between appellant's improved board anchor and the toggle bolt shown in Newhall et al have been set forth hereinabove with respect to appellant's argument regarding the rejection of claim 4 as being anticipated under 35 U.S.C.102(b).

As noted by the examiner, Newhall et al does not disclose an anchor section having an elongated portion with a threaded hole. This feature, as set forth hereinabove, inter alia, provides increased anchoring strength and allows the screw shaft to be removed, if necessary. Regarding dependent claim 6, although Place discloses a toggle bolt having an anchor section with an elongated portion 6 with a threaded opening 4, there is no suggestion, notwithstanding examiner's assertion, that the primary Newhall et al reference could be modified to incorporate these features of Place without the use of

hindsight. Specifically, the toggle bolt of Newhall et al is designed not to be attached to the toggle bolt head 2 so that either a nut 5 or head 4 could be utilized to engage the face of article 11; Place is designed solely for a threaded screw or bolt 22 having a specific head design 24 such that, once engaged, the screw can tightly engage the opening and hold the toggle 2 in place.

Claim 7, dependent on claim 6, further sets forth that, inter alia, the threaded shaft extends through the aligned holes in the attachment ring 8 and the anchor section 2, features not shown in Newhall et al. Appellant does not agree that Newhall et al could be modified in view of the Place reference as suggested by the examiner for the reasons noted above.

In Robotic Vision Systems Inc. v. View Engineering, Inc., 51USPQ2d 1948, 1954 (Fed. Cir. 1999), the Court reiterated the standard regarding obviousness rejections under 35 U.S.C. § 103. In particular, the Court noted that the combination of two or more references “must show some motivation or suggestion to combine the teachings”, also citing In re Rouffet, 47USPQ2d 1453 (Fed. Cir. 1998). It is clear that the Newhall et al and Place references cited by the examiner do not motivate or suggest to someone skilled in the art that they can be combined to make applicant’s claimed invention as set forth in dependent claims 6 and 7 obvious without the use of hindsight.

WHETHER CLAIMS 11 AND 12 ARE UNPATENTABLE OVER NEWHALL
ET AL IN VIEW OF PLACE AND FURTHER IN VIEW OF NEWHALL

Claims 11 and 12 set forth the specific features of the attachment ring trunnions, or protrusions, and the anchor section shaped openings that enable the attachment ring to both function as a mechanism for stopping the anchor section in the cross position and to align the threaded openings in the attachment ring and the anchor section.

Newhall et al, Newhall and Place, when combined in the manner suggested by the examiner, does not disclose the inventive concept claimed by appellant; an attachment ring, when used in conjunction with the anchor section, provides alignment and stop features simply and efficiently.

In Robotic Vision Systems Inc. v. View Engineering, Inc., 51USPQ2d 1948, 1954 (Fed. Cir. 1999), the Court reiterated the standard regarding obviousness rejections under 35 U.S.C. § 103. In particular, the Court noted that the combination of two or more references “must show some motivation or suggestion to combine the teachings”, also citing In re Rouffet, 47USPQ2d 1453 (Fed. Cir. 1998). It is clear that the Newhall et al, Newhall and Place references cited by the examiner do not motivate or suggest to someone skilled in the art that they can be combined to make applicant’s claimed invention as set forth in dependent claims 11 and 12 obvious without the use of hindsight.

9. APPENDIX – CLAIMS INVOLVED IN APPEAL

4. An improved board anchor for securing a board to a wall member, said wall member having an opening formed therethrough, comprising:

a threaded shaft having a longitudinal axis;

a freely rotating anchor section attached to the screw shaft, said anchor section comprising a channel shaped member having spaced apart, downwardly extending flange portions, each flange portion having a shaped opening formed therein;

a rotatable threaded attachment ring having first and second protrusions formed on the perimeter of said attachment ring, said protrusions adapted to engage the corresponding opening formed on said anchor section, said threaded shaft being threadly coupled to said attachment ring prior to the insertion of said anchor portion within said

wall member opening, said attachment ring protrusions and said shaped openings enabling said threaded shaft to be initially positioned substantially parallel to said longitudinal axis within said wall member opening and repositioning the anchor section to a first position substantially perpendicular to said screw shaft longitudinal axis after exiting said wall member opening, said shaped openings and said attachment ring protrusions acting together to lock said anchor section in said first position.

6. The board anchor of claim 4 wherein said anchor section includes an elongated portion having a threaded hole adapted to engage said threaded screw shaft when said anchor section is in said first position.

7. The board anchor of claim 6 wherein said shaped openings and said attachment ring protrusions function to position said anchor section substantially perpendicular to said screw shaft longitudinal axis so that the threaded holes in said attachment ring and said elongated portion of said anchor section are aligned as said threaded shaft is rotated such that a portion of said threaded shaft extends through said aligned holes.

8. The board anchor of claim 7 wherein said shaped openings limit the angular rotation of said attachment ring relative to said anchor section to substantially 90°.

9. The board anchor of claim 7 further including a bushing mounted to the outer circumference of said threaded shaft.

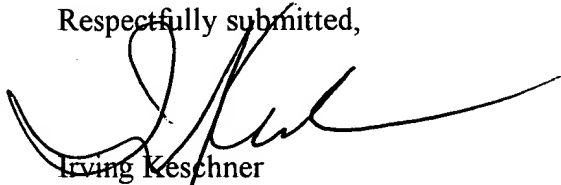
10. The board anchor of claim 9 wherein said bushing is positioned within said opening when said board is secured to said wall member.

11. The board anchor of claim 7 wherein each of said shaped openings are formed by first and second spaced apart protrusions extending into a cavity.

12. The board anchor of claim 11 wherein sufficient space is provided between said first and second protrusions to enable said attachment ring protrusions to extend

therebetween, said extending protrusions limiting the angular rotation of said attachment ring protrusions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Irving Keschner', written over the typed name.

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